Jharkhand Civil Judge (Mains) 2014 (held July 2014)

Paper II · compulsory paper

Law Paper II · Full Marks: 100 · Time: 3 Hours. Candidates are required to answer five questions, selecting compulsorily one question from each Section.

Section A

1. (a) "A contract can not be enforced by a person who is not party to it, even though it is made for his benefit." Explain and point out the exceptions to this rule. 15 Marks

(b) 'A' out of natural love and affection promises to pay his son Rs. 10,000. He puts promise in writing and registers it. How far is the contract valid? 5 Marks

2. (a) Discuss the rule relating to damages laid down in the case of Hadley v. Baxendale. 10 Marks

(b) "An agreement without consideration is void." Explain the rule and point out its exceptions. 10 Marks

Section B

3. (a) Who is unpaid seller? What are the rights of an unpaid seller? 10 Marks

(b) Explain the doctrine of caveat emptor with its exceptions. 10 Marks

4. (a) Discuss the doctrine of 'nemo dat quod non habet'. What are the exceptions to this doctrine? 15 Marks

(b) 'A' finds a ring and after making reasonable efforts to discover the owner, sells it to 'B', who buys without knowledge that A was merely a finder. Can the true owner recover the ring from 'B'? 5 Marks

Section C

5. (a) "A banker is bound to honour his customer's cheque." In the light of this statement discuss the liability of a banker for wrongful dishonour of cheque. 10 Marks

(b) What is endorsement? Explain different kinds of endorsement. 10 Marks

6. (a) Discuss that a 'holder in due course' is a 'holder' but a 'holder' is not a 'holder in due course'. 10 Marks

(b) Define 'Bill of Exchange'. How is it different from 'cheque'? 10 Marks

Section D

7. (a) Define an arbitration agreement. Distinguish between arbitration agreement and agreement for expert determination. 15 Marks

(b) Ram and Shyam agreed in writing to resolve the disputes arising out of their contract by way of arbitration to be done by a tribunal consisting of two arbitrators, one to be selected by each party. An award was passed by the tribunal on a dispute submitted by the parties. Ram challenged the award. Decide. 5 Marks

8. (a) Discuss the grounds for setting aside an arbitral award. 10 Marks

(b) Can exparte order may be passed by arbitrator? 10 Marks

Section E

9. (a) Define subrogation. Who are the persons entitled for subrogation? Distinguish between legal and conventional subrogation. 15 Marks

(b) There is a contract to sell a house between 'A' and 'B'. 'B' files a suit against 'A' for specific performance of contract. While the suit is pending 'A' sells the house to 'C' who does not have notice of pendency of suit. Suit is decreed in favour of 'B'. Can the decree be executed against 'C'? 5 Marks

10. (a) "Once a mortgage always a mortgage, nothing but a mortgage." Explain this rule and illustrate the circumstances which constitute clog on equity of redemption. 15 Marks

(b) Distinguish between mortgage and charge. 5 Marks

De Facto IAS